



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Department for Environmental Protection

Division of Waste Management

(Amendment)

401 KAR 42:030. General operating requirements.

RELATES TO: KRS 224.10, 224.60, 40 CFR Part 280 Subpart C, 40 CFR Part 281, 42 U.S.C. 6991c

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 40 CFR Part 280 Subpart C, 40 CFR Part 281, 42 U.S.C. 6991c

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Environmental and Public Protection Cabinet [~~Natural Resources and Environmental Protection Cabinet~~] to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.60-105 [(2)] requires the cabinet to regulate underground storage tanks by requiring registration [~~notification~~], minimum construction and performance standards, leak detection, recordkeeping, reporting UST system releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This

administrative regulation establishes requirements for spill and overflow control, operation and maintenance of corrosion protection, compatibility, repairs, and reporting and recordkeeping.

Section 1. Adoption of Federal Regulations. (1) The requirements for spill and overflow control, operation and maintenance of corrosion protection, compatibility, repairs, reporting and recordkeeping for underground storage tanks are governed by 40 CFR Part 280, Subpart C [(1990).] and this administrative regulation.

(2) The forms incorporated by reference in Section 4 of this administrative regulation shall be submitted to the cabinet within thirty (30) days of completion of cathodic protection system testing to document the results of the tests which are required by subsection (1) of this section.

Section 2. Cathodic Protection System Evaluation. A person shall meet one of the following qualifications to test cathodic protection systems in the Commonwealth of Kentucky:

(1) Those individuals who meet the definition of “Cathodic protection tester” as defined by 401 KAR 42:005;

(2) Those individuals who, at a minimum, are certified as a “Cathodic protection tester” by NACE International; or

(3) Those individuals who have completed corrosion protection tester training, which includes the following:

(a) Basics of corrosion;

(b) Underground corrosion;

(c) Corrosion prevention;

(d) Assessing physical conditions for corrosion potential;

(e) Review of EPA’s regulatory requirements for corrosion protection;

1 (f) Hands on field experience in the testing of both impressed current and sacrificial
2 anode systems, which includes:

3 1. Using reference cells;

4 2. Taking remote readings;

5 3. How to read and understand a rectifier;

6 4. How to use a test station;

7 5. Taking measurements/ -850 criterion; and

8 6. Typical and non-typical problems; and

9 (g) Review of standards and recommended practices from corrosion protection materials
10 including, NACE, API, NFPA and ASTM.

11 Section 3. Actions Required as a Result of the Cathodic Protection System Evaluation.

12 (1) If the cathodic protection is adequate, the cathodic protection system shall be retested
13 within three (3) years of the date of testing.

14 (2) If the cathodic protection system fails the evaluation, but the Cathodic protection
15 tester determines the failure may be attributable to adverse testing conditions and determines the
16 system is otherwise in good working condition, then a retest may be performed within ninety
17 (90) days of the failing evaluation. No action to repair or modify the cathodic protection system
18 shall be required during the ninety (90) day retesting period. If the retest conducted within the
19 ninety (90) day retesting period indicates a system failure, then repairs or modifications must be
20 completed as soon as practicable, but no more than ninety (90) days after the expiration of the
21 ninety (90) day retesting period.

22 (3) If the cathodic protection system fails the evaluation, and it does not qualify for the
23 ninety (90) day retesting period in subsection (2) of this section, then repairs or modifications

1 shall be completed as soon as practicable, but no more than ninety (90) days after the
2 performance of the evaluation.

3 (4) A cathodic protection system evaluation shall be required within 180 days after the
4 installation, repair, or modification of a cathodic protection system.

5 Section 4. Incorporation by Reference. The following documents are incorporated by
6 reference:

7 (1) "Galvanic (Sacrificial Anode) Cathodic Protection System Evaluation", DEP 8052
8 (January 2006);

9 (2) "Impressed Current Cathodic Protection System Evaluation", DEP 8053 (January
10 2006);

11 (3) "60-Day Record of Rectifier Operation for Impressed Current Cathodic Protection
12 System", DEP 8054 (January 2006).

13 (4) These forms may be inspected, copied, or obtained, subject to applicable copyright
14 law, at the Underground Storage Tank Branch, 81 C. Michael Davenport Boulevard, Frankfort,
15 Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., excluding state holidays and may
16 also be obtained on the Division of Waste Management's web page located at
17 www.waste.ky.gov.

401 KAR 42:030 is approved for filing.

5-12-2006

Date

John W. Clay

John W. Clay, Deputy Secretary
Environmental and Public Protection Cabinet

for

LaJuana S. Wilcher, Secretary
Environmental and Public Protection Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2006 at 10:00 AM (Eastern Time) at the Capital Plaza Tower Auditorium, 500 Mero Street, Room 228, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by May 16, 2006, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2006. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Bruce Scott, P. E., Director
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Frankfort, KY 40601
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 42:030

Contact person: Bruce Scott, Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for spill and overfill control, operation and maintenance of corrosion protection, compatibility, repairs, and reporting and recordkeeping.

(b) The necessity of this administrative regulation: This administrative regulation indicates to owners and operators the requirements to prevent overfills, spills and operation and maintenance of corrosion protection in order to protect human health and the environment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.60-105 authorizes the cabinet to promulgate administrative regulations in order to implement federal regulatory requirements for underground storage tanks. This administrative regulation provides the necessary procedures and rules to implement the statute. This program is also in conformance with federal regulations 40 CFR Part 280 Subpart C, 40 CFR Part 281, and federal law 42 U.S.C. 6991c.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes criteria that will be used by contractors, owners, and operators in developing protective measure in order to achieve and remain in compliance with Underground Storage Tank regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will update the information on cathodic protection.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order for the program to be updated to current practices in cathodic protection.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes do not indicate how the underground storage tank program shall be implemented. Therefore, it is necessary for the regulations in 401 KAR Chapter 42, which this regulation is a part of, to detail the policies and procedures of the program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will update the cathodic protection standards required by the cabinet, in order to protect human health and the environment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect those individuals that own and operate underground storage tanks in the Commonwealth of Kentucky,

approximately 13,400. UST contractors that operate in the Commonwealth of Kentucky will also be affected by this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: This amendment will provide owners and operators current guidelines on the expectations the cabinet has regarding cathodic protection and information relating to overfills and spills.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

- (a) Initially: There will be no cost associated with implementation of this regulation.
- (b) On a continuing basis: There will be no additional costs associated with this regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation will be funded by the UST Administration Fund established in KRS 224.60-150.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There is no need for an increase in funding or fees to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)

No tiering is applied. This administrative regulation applies to all owner and operators of USTs.

To apply tiering to the amendment would unduly regulate some entities with underground storage tanks while not regulating others.

FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 42:030

Contact person: Bruce Scott, Director

Phone Number: (502) 564-6716

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No If yes, complete question 2 to 4. If no, you do not need to file this form.

2. State what unit, part, or division of local government this administrative regulation will affect.

This amendment may affect local governments that own or operate USTs.

3. State, in detail, the aspect or service of local government to which this administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation.

This amendment relates to the agents of local government that own or operate USTs. KRS 224.60-105 authorizes the promulgation of this administrative regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No effect.

Expenditures (+/-): No effect.

Other Explanation: The cabinet expects no significant impact from this administrative regulation.

**DETAILED SUMMARY OF MATERIAL
INCORPORATED BY REFERENCE IN
401 KAR 42:030**

I. This administrative regulation incorporates by reference the "Galvanic (Sacrificial Anodes) Cathodic Protection System Evaluation", DEP 8052 (January 2006). This document is used to evaluate the cathodic protection systems of underground storage tank (UST) systems.

This document consists of 7 pages.

II. This administrative regulation incorporates by reference the "Impressed Current Cathodic Protection System Evaluation", DEP 8053 (January 2006). This document is used to evaluate an impressed current cathodic protection system for USTs.

This document consists of 7 pages.

III. This administrative regulation incorporates by reference the "60-Day Record of Rectifier Operation for Impressed Current Cathodic Protection System", DEP 8054 (January 2006). This document is used to verify the operation of a cathodic protection system rectifier every 60 days.

This document consists of 1 page.